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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,625	08/11/2003	Jonathan Hui	03630.000203.1	2096
5514 7590 05/05/2008 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER BANTAMOL, ANTHONY				
ART UNIT 2623		PAPER NUMBER		
MAIL DATE 05/05/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/637,625

**Applicant(s)**

HUI ET AL.

**Examiner**

ANTHONY BANTAMOI

**Art Unit**

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 10/02/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Response to Arguments***

In the office action mailed 22 February 2008, the examiner inadvertently addressed the incorrect set of claims. As such, the rejections of claims 1-12 in the previous office action have been vacated.

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-6 and 19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a non-statutory subject matter as follows.

Claim 1 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim 2 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim 3 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material.

Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim 4 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim 5 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim 6 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

Claim 19 recites a data structure which does not impart functionality to a computer or a computing device and is thus considered a nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional

interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4-8, 10—14, and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephen Bugaj et al in the publication titled Synchronized Multimedia Integration Language, November 1997, edited by Phillip Hoscha (09/09/1997) in view of Zigmund et al US Patent Publication 2005/0097622 (hereafter referenced as Bugaj and Zigmund).

Regarding claim 1, Bugaj in section 2, 1-4 discloses SMIL (synchronized media integration language) for integrating a set of independent multimedia objects into a synchronized multimedia presentation such as slide show synchronized with audio comments or a video synchronized with text stream, in section 3, 1 Bugaj discloses that a SMIL document is an XML-based document, in section 4 Bugaj disclose the general syntax of a SMIL document comprising a header and a body wherein both parts contain elements and attributes which reads on "An XML-based tag for visual cue associated to a visual element of an XML-based multimedia presentation, comprising: an element attribute that defines the visual representation of the visual cue".

In section 5, General Semantics, 1-6 Bugaj disclose a layout section of a SMIL document including alternative layout elements embedded in a switch element used to determine the placement of the presentation which reads on "attribute that defines the spatial characteristics of the visual cue", in section 6, General Semantics, 1 Bugaj discloses a schedule element which determines the temporal behavior of the SMIL document which reads on "and an element attribute that defines temporal characteristics of the visual cue". In section 7.4 page 27 Bugaj discloses a smile document for the newscast presentation illustrated in figure 7.1 page 26 wherein the layout and temporal elements are controlled by their associated attributes which reads on "wherein the defined temporal and spatial characteristics of the visual cue are relative to the temporal and spatial characteristics of the associated visual element."

Bugaj does not disclose and wherein the visual cue's display is superimposed over the associated visual element in the multimedia presentation based on the defined visual representation, temporal characteristics and spatial characteristics of the visual cue. Zigmond in 0061, 1-12 discloses an icon 700 that alerts user of a web link related to television program 500 wherein the icon 700 can be superimposed at any location over the television program 500 which reads on "and wherein the visual cue's display is superimposed over the associated visual element in the multimedia presentation based on the defined visual representation, temporal characteristics and spatial characteristics of the visual cue.". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bugaj as taught by Zigmond in order to provide the user access to related program information on the web.

Regarding Claim 2, Bugaj in section 6.1, General Semantics, 3 discloses schedule elements including begin and end times and in section 6.2 page 8, 3 Bugaj discloses duration as the difference between the end times and begin time of an element, which reads on "An XML-based tag as defined further wherein temporal characteristics include begin time, end time, and duration."

Regarding Claim 4, Bugaj in section 6.4, Syntax discloses an image element which reads on "An XML-based tag as defined wherein visual representation includes shape."

Regarding Claim 5, in section 5, General Semantics, 1-6 Bugaj disclose a layout section of a SMIL document including alternative layout elements embedded in a switch element used to determine the placement of the presentation which reads on "An XML-based tag as defined wherein spatial characteristics include position."

Regarding Claim 6, in section 7.4 page 27 Bugaj discloses a smile document for the newscast presentation illustrated in figure 7.1 page 26 wherein the layout and temporal elements are controlled by their associated attributes in hierarchal order which reads on "An XML-based tag as defined wherein the XML-based tag for the visual cue is nested within an XML-based element that defines the associated visual element."

Regarding claim 7, Bugaj in section 7.4, page 26, 2-9 discloses a news broadcast on the web as shown in figure 7.1 to the left and right which reads on "In an XML-based browser that displays synchronized multimedia presentations to user a method for processing an XML-based tag for visual cues associated with a multimedia element comprising:"

On page 27 Bugaj discloses an XML data structure holding the elements of the of the newscast scenario written in XML code comprising elements stored in tags wherein each element has its own properly defined attribute including spatial and temporal characteristics to perform a presentation which reads on "storing information from the tag concerning the multimedia element to which the visual cue is associated, together with the information from the tag concerning visual representation and spatial and temporal characteristics of the visual cue; and in synchronization with display of the multimedia element, displaying the visual cue with the visual representation specified, and in the spatial and temporal relationships specified by the spatial and temporal characteristics."

In section 7.4 page 27 Bugaj discloses a smile document for the newscast presentation illustrated in figure 7.1 page 26 wherein the layout and temporal elements are controlled by their associated attributes which reads on "wherein the defined temporal and spatial characteristics of the visual cue are relative to the temporal and spatial characteristics of the associated visual element."

Bugaj does not discloses and wherein the visual cue's display is superimposed over the associated visual element in the multimedia presentation based on the defined visual representation, temporal characteristics and spatial characteristics of the visual cue. Zigmond in 0061, 1-12 discloses an icon 700 that alerts user of a web link related to television program 500 wherein the icon 700 can be superimposed at any location over the television program 500 which reads on "and wherein the visual cue's display is superimposed over the associated visual element in the multimedia presentation based



on the defined visual representation, temporal characteristics and spatial characteristics of the visual cue". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bugaj as taught by Zigmond in order to provide the user access to related program information on the web.

Regarding Claim 8, Bugaj in section 6.1, General Semantics, 3 discloses schedule elements with begin and end time and in section 6.2 page 8, 3 Bugaj discloses that duration is the difference between the end time and begin time of an element, which reads on "An XML-based browser as defined further wherein temporal characteristics include begin time, end time, and duration."

Regarding Claim 10, Bugaj in section 6.4, Syntax discloses an image attribute which reads on "An XML-based browser as defined wherein visual representation includes shape."

Regarding Claim 11, in section 5, General Semantics, 1-6 Bugaj disclose a layout section of a SMIL document including alternative layout elements embedded in a switch element used to determine the placement of the presentation which reads on "An XML-based browser wherein spatial characteristics includes position."

Regarding Claim 12, in section 7.4 page 27 Bugaj discloses a smile document for the newscast presentation illustrated in figure 7.1 page 26 wherein the layout and temporal elements are controlled by their associated attributes in hierarchal order which reads on "An XML-based browser wherein the XML-based tag for the visual cue is nested within the XML based element that defines the associated visual element."

Claim 13 is the software that performs the steps described in claim 7. Thus claim 13 is rejected for the same reasons as claim 7.

Regarding Claim 14, Bugaj in section 6.1, General Semantics, 3 discloses schedule elements with begin and end time and in section 6.2 page 8, 3 Bugaj discloses that duration is the difference between the end time and begin time of an element, which reads on "A computer-readable medium, wherein temporal characteristics include begin time, end time, and duration."

Regarding Claim 16, Bugaj in section 6.4, Syntax discloses an image attribute which reads on "A computer-readable medium, wherein visual representation includes shape."

Regarding Claim 17, in section 5, General Semantics, 1-6 Bugaj disclose a layout section of a SMIL document including alternative layout elements embedded in a switch element used to determine the placement of the presentation which reads on "A computer-readable medium, wherein spatial characteristics include position."

Regarding Claim 18, in section 7.4 page 27 Bugaj discloses a smile document for the newscast presentation illustrated in figure 7.1 page 26 wherein the layout and temporal elements are controlled by their associated attributes in hierarchal order which reads on "A computer-readable medium according to Claim 13, wherein the XML-based tag for the visual cue is nested within an XML-based element that defines the associated visual element."

Regarding claim 19, Bugaj in section 7.4 page 27 Bugaj discloses a smile document for the newscast presentation illustrated in figure 7.1 page 26 wherein the

layout and temporal elements are controlled by their associated attributes which reads on "An XML-based tag, wherein the temporal characteristic of the visual cue is based on the temporal characteristic of the visual element to which the visual cue is associated."

Regarding claim 20, Bugaj in section 7.4 page 27 Bugaj discloses a smile document for the newscast presentation illustrated in figure 7.1 page 26 wherein the layout and temporal elements are controlled by their associated attributes which reads on "An XML-based browser, wherein the temporal characteristic of the visual cue is based on the temporal characteristic of the multimedia element to which the visual cue is associated."

Regarding claim 21, Bugaj in section 7.4 page 27 Bugaj discloses a smile document for the newscast presentation illustrated in figure 7.1 page 26 wherein the layout and temporal elements are controlled by their associated attributes which reads on "A computer-readable medium, wherein the temporal characteristic of the visual cue is based on the temporal characteristic of the multimedia element to which the visual cue is associated."

5. Claims 3, 9, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugaj in view of Zigmond and further in view of Ueda US Patent 5,586,239 (hereafter referenced as Ueda).

Regarding Claim 3, Bugaj in section 6.4, Syntax discloses an image element tagged as an XML media object element. However, Bugaj and Zigmond do not disclose wherein visual representation includes color. Ueda discloses color as one of the attributes used to distinguish objects displayed on the same display device which reads

on "wherein visual representation includes color". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bugaj as taught by Ueda in order to provide an easy method of differentiating the objects.

Regarding Claim 9, Bugaj in section 6.4, Syntax discloses an image element tagged as an XML media object element. However, Bugaj and Zigmond do not disclose wherein visual representation includes color. Ueda discloses color as one of the attributes used to distinguish objects displayed on the same display device which reads on "wherein visual representation includes color". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bugaj as taught by Ueda in order to provide an easy way of differentiating the objects.

Regarding Claim 15, Bugaj in section 6.4, Syntax discloses an image element tagged as an XML media object element. However, Bugaj and Zigmond do not disclose wherein visual representation includes color. Ueda discloses color as one of the attributes used to distinguish objects displayed on the same display device which reads on "wherein visual representation includes color". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bugaj as taught by Ueda in order to provide an easy way of differentiating the objects.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY BANTAMOI whose telephone number is (571)270-3581. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272 7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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